

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

<b>In re:</b>	§	<b>Chapter 11</b>
	§	
<b>W.R. GRACE &amp; CO., et al.,</b>	§	<b>Jointly Administered</b>
	§	<b>Case No. 01-01139 (JKF)</b>
<b>Debtors.</b>	§	
	§	

**FEE AUDITOR'S COMBINED FINAL REPORT REGARDING  
THOSE FEE APPLICATIONS WITH *DE MINIMIS* OR NO FEE OR EXPENSE ISSUES  
FOR THE THIRTY-FOURTH INTERIM PERIOD**

This is the final report of Warren H. Smith & Associates, P.C., acting in its capacity as fee auditor in the above-captioned bankruptcy proceedings, regarding all the Interim Fee Applications of those firms for which we have *de minimis*<sup>1</sup> or no fee or expense issues for the Thirty-Fourth Interim Period (collectively referred to hereafter as the “Applications”).<sup>2</sup>

**BACKGROUND**

1. Anderson Kill & Olick, P.C. (“AKO”), was retained as special insurance counsel to the Official Committee of Asbestos Personal Injury Claimants. AKO seeks approval of fees totaling \$1,199,112.00 and expenses totaling \$22,671.58 for its services during the Application Period.

2. The Law Offices of Janet S. Baer, P.C. (“Baer”), was retained as co-counsel to the Debtors and Debtors-in-Possession. Baer seeks approval of fees totaling \$474,822.50 and expenses totaling \$14,490.29 for its services during the Application Period.

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<sup>1</sup>For purposes of this report, applications with *de minimis* issues are those for which: (1) our recommended reductions total less than \$100, and (2) the applicant has agreed to our recommended reductions.

<sup>2</sup>The Thirty-Fourth Interim Period encompasses July 1, 2009 through September 30, 2009 (the “Application Period”).

3. Baker Donelson Bearman Caldwell & Berkowitz, P. C. (“Baker Donelson”), was retained as advisor for legislative affairs to the Debtors. Baker Donelson seeks approval of a flat fee totaling \$60,000.00<sup>3</sup> and expenses totaling \$34.44 for its services during the Thirty-Third Interim Period,<sup>4</sup> and a flat fee of \$60,000.00<sup>5</sup> and expenses totaling \$14.23 for its services during the current Application Period.

4. Beveridge & Diamond, P.C. (“Beveridge & Diamond”), was retained as special counsel to the Debtors. Beveridge & Diamond seeks approval of fees totaling \$15,799.50 and expenses totaling \$593.83 for its services during the Application Period.

5. Bilzin Sumberg Baena Price & Axelrod LLP (“Bilzin Sumberg”) was retained as counsel to the Official Committee of Asbestos Property Damage Claimants. Bilzin Sumberg seeks approval of fees totaling \$114,260.75 and expenses totaling \$104,133.15 for its services during the Application Period.

6. Blackstone Advisory Services L.P. (“Blackstone”) was retained as financial advisor to the Debtors. Blackstone seeks approval of a flat fee totaling \$450,000.00<sup>6</sup> and expenses totaling \$17,086.89 for its services during the Application Period.

7. Campbell & Levine, LLC (“Campbell & Levine”), was retained as Delaware and

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<sup>3</sup>For the Thirty-Third Interim Period, Baker Donelson lists 21 hours worked, which computes to an effective hourly rate of \$2,857.00.

<sup>4</sup>The Thirty-Third Interim Period encompasses April 1, 2009 through June 30, 2009.

<sup>5</sup>For the current Application Period, Baker Donelson lists 26 hours worked, which computes to an effective hourly rate of \$2,307.69.

<sup>6</sup>For the Application Period, Blackstone lists 718.50 hours worked, which computes to an effective hourly rate of \$626.30.

associated counsel to the Official Committee of Asbestos Personal Injury Claimants. Campbell & Levine seeks approval of fees totaling \$189,711.00 and expenses totaling \$59,538.35 for its services during the Application Period.

8. Capstone Advisory Group, LLC (“Capstone”), was retained as financial advisor to the Official Committee of Unsecured Creditors. Capstone seeks approval of fees totaling \$361,641.00 expenses totaling \$3,541.67 for its services during the Application Period.

9. Casner & Edwards, LLP (“Casner”), was retained as special litigation counsel to the Debtors. Casner seeks approval of fees totaling \$39,699.50 and expenses totaling \$38,364.93 for its services during the Application Period.

10. Charter Oak Financial Consultants, LLC (“Charter Oak”), was retained as financial advisor to the Official Committee of Asbestos Personal Injury Claimants. Charter Oak seeks approval of fees totaling \$43,775.50 and no expenses for its services during the Application Period.

11. Day Pitney LLP (“Day Pitney”) was retained as special counsel to the Debtors. Day Pitney seeks approval of fees totaling \$34,342.50 and expenses totaling \$48.96 for its services during the Application Period.

12. Ferry, Joseph & Pearce, P.A. (“Ferry Joseph”), was retained as counsel to the Official Committee of Asbestos Property Damage Claimants. Ferry Joseph seeks approval of fees totaling \$101,584.50 and expenses totaling \$8,798.98 for its services during the Application Period.

13. Foley Hoag LLP (“Foley Hoag”) was retained as special environmental counsel to the debtor. Foley Hoag seeks approval of fees totaling \$42,333.00 and expenses totaling \$145.26 for its services during the Application Period.

14. Holme Roberts & Owen, LLP (“Holme”), was retained as special environmental

counsel to the Debtors. Holme seeks approval of fees totaling \$938.00 and expenses totaling \$2,926.73 for its services for the Thirty-Second Interim Period.<sup>7</sup>

15. Legal Analysis Systems, Inc. (“LAS”), was retained as asbestos-related bodily injury consultant to the Official Committee of Asbestos Personal Injury Claimants. LAS seeks approval of fees totaling \$300,425.00 and expenses totaling \$4,833.06 for its services during the Application Period.

16. Ogilvy Renault LLP (“Ogilvy Renault”) was retained as special counsel to the Debtors and Debtors-in-Possession in Canada. Ogilvy Renault seeks approval of fees totaling CDN\$51,643.50<sup>8</sup> and expenses totaling CDN\$1,184.45 for its services during the Application Period. We note for informational purposes that attorney Derrick C. Tay billed 6.0 hours in the Application at the hourly rate of CDN\$1,000.00, or US \$1,072.07.<sup>9</sup> In *In re USG Corporation*, Case No. 01-2094 (JKF), Transcript of Proceedings, July 19, 2004, p. 14, the Honorable Judith K. Fitzgerald asked that we call to the Court’s attention any instance in which a professional’s rate reaches \$1,000.00 per hour, and thus we are complying with the Court’s request.

17. Pachulski Stang Ziehl & Jones LLP (“Pachulski”), was retained as counsel to the Debtors. Pachulski seeks approval of fees totaling \$251,464.25 and expenses totaling \$195,318.79 for its services during the Application Period.

18. Phillips, Goldman & Spence, P.A. (“PG&S”), was retained as local counsel to David

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<sup>7</sup>The Thirty-Second Interim Period encompasses January 1, 2009 through March 31, 2009.

<sup>8</sup>Consistent with Ogilvy Renault’s Application, all dollar amounts in this report pertaining to Ogilvy Renault are in CDN, unless otherwise indicated.

<sup>9</sup>Calculated utilizing a rate of exchange of CDN\$1 to US \$1.072067 in effect on September 30, 2009.

T. Austern, Future Claimants' Representative. PG&S seeks approval of fees totaling \$57,460.00 and expenses totaling \$2,418.33 for its services for the Thirty-Third Interim Period.

19. Protiviti Inc. ("Protiviti") was retained as Sarbanes-Oxley compliance advisor to the debtors. Protiviti seeks approval of fees totaling \$38,280.00 and expenses totaling \$3,846.54 for its services during the Application Period.

20. Reed Smith LLP ("Reed Smith") was retained as special asbestos products liability defense counsel to the Debtors. Reed Smith seeks approval of fees totaling \$110,343.00 and expenses totaling \$47,361.97 for its services during the Application Period.<sup>10</sup>

21. Alan B. Rich ("Alan Rich") was retained as counsel to the Honorable Alexander M. Sanders, Jr., Legal Representative for Future Asbestos-Related Property Damage Claimants. Alan Rich seeks approval of \$202,402.50 in fees and \$16,828.62 in expenses for his services during the Application Period.

22. The Honorable Alexander M. Sanders, Jr. ("Judge Sanders"), was retained as the Legal Representative for Future Asbestos-Related Property Damage Claimants. Judge Sanders seeks approval of fees totaling \$62,415.00 and expenses totaling \$3,904.58 for his services during the Application Period.

23. Towers Perrin Tillinghast ("Towers Perrin") was retained as actuarial consultant to

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<sup>10</sup>We note that on or about August 26, 2002, the Court entered an order approving a total budget for the ZAI Science Trial of \$1.5 million in fees and \$500,000 in expenses for the debtor, as well as \$1.5 million in fees and \$500,000.00 in expenses for ZAI counsel. On July 28, 2003, the Court entered an order increasing the budget by \$950,000 per side for additional attorney fees and expenses. On September 27, 2004, the Court entered an order further increasing the litigation budget in the ZAI Science Trial by \$750,000.00 per side for additional attorneys' fees and expenses. We note that the ZAI-related fees and expenses of Reed Smith, combined with those of Kirkland & Ellis LLP, have not exceeded the budget limits set by the Court, and we have no objection to Reed Smith's fees on that basis.

David T. Austern, Future Claimants Representative. Towers Perrin seeks approval of fees totaling \$5,747.50 and no expenses for its services during the Application Period.

24. Tre Angeli LLC ("Tre Angeli") was retained as financial advisor to David T. Austern, Future Claimants' Representative. Tre Angeli seeks a flat fee of \$100,000.00<sup>11</sup> and expenses totaling \$288.64 for its services during the Application Period.

25. Woodcock Washburn LLP ("Woodcock Washburn") was retained as special litigation counsel to the Debtors. Woodcock Washburn seeks approval of fees totaling \$21,576.00 and expenses totaling \$180.00 for its services during the Application Period.

26. In conducting this audit and reaching the conclusions and recommendations contained herein, we reviewed in detail the Applications in their entirety, including each of the time and expense entries included in the exhibits to the Applications, for compliance with 11 U.S.C. § 330, Local Rule 2016-2 of the Local Rules of the United States Bankruptcy Court for the District of Delaware, Amended Effective February 1, 2009, and the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330, Issued January 30, 1996 (the "Guidelines"), as well as for consistency with precedent established in the United States Bankruptcy Court for the District of Delaware, the United States District Court for the District of Delaware, and the Third Circuit Court of Appeals.

## **DISCUSSION**

27. We have no objections to or issues with, any of the Applications, with the exception

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<sup>11</sup>For the Application Period, Tre Angeli lists 121 hours worked, which computes to an effective hourly rate of \$826.45.

of certain *de minimis* issues as explained in the following paragraph and corresponding footnotes.

### CONCLUSION

28. In summary, for the Application Period, we recommend approval of the following fees and expenses for these Applicants:

- a. AKO - \$1,199,112.00 in fees and \$22,671.58 in expenses;
- b. Baer - \$474,822.50 in fees and \$14,490.29 in expenses;
- c. Baker Donelson - \$60,000.00 in fees and \$34.44 in expenses for the Thirty-Third Interim Period; and \$60,000.00 in fees and \$14.23 in expenses for the current Application Period;
- d. Beveridge & Diamond - \$15,799.50 in fees and \$593.83 in expenses;
- e. Bilzin Sumberg - \$114,222.75 in fees (\$114,260.75 minus \$38.00<sup>12</sup>) and \$104,133.15 in expenses;
- f. Blackstone - \$450,000.00 in fees and \$17,086.89 in expenses;
- g. Campbell & Levine - \$189,711.00 in fees and \$59,538.35 in expenses;
- h. Capstone - \$361,641.00 in fees and \$3,506.56 in expenses (\$3,541.67 minus \$35.11<sup>13</sup>);
- i. Casner - \$39,699.50 in fees and \$38,364.93 in expenses;
- j. Charter Oak - \$43,775.50 in fees;
- k. Day Pitney - \$34,342.50 in fees and \$48.96 in expenses;
- l. Ferry Joseph - \$101,584.50 in fees and \$8,798.98 in expenses;

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<sup>12</sup>This reflects a recommended reduction of \$38.00 to correct an inadvertent overcharge on one of Bilzin Sumberg's time entries, to which reduction the applicant has agreed.

<sup>13</sup>This reflects a recommended reduction of \$35.11 for two of Capstone's meal charges which slightly exceeded our recommended guidelines, to which reduction the applicant has agreed.

- m. Foley Hoag - \$42,333.00 in fees and \$145.26 in expenses;
- n. Holme - \$938.00 in fees and \$2,926.73 in expenses for the Thirty-Second Interim Period;
- o. LAS - \$300,425.00 in fees and \$4,833.06 in expenses;
- p. Ogilvy Renault - CDN\$51,643.50 in fees and CDN\$1,184.45 in expenses;
- q. Pachulski - \$251,421.25 in fees (\$251,464.25 minus \$43.00<sup>14</sup>) and \$195,318.79 in expenses;
- r. PG&S - \$57,460.00 in fees and \$2,418.33 in expenses for the Thirty-Third Interim Period;
- s. Protiviti - \$38,280.00 in fees and \$3,846.54 in expenses;
- t. Reed Smith - \$110,343.00 in fees and \$47,361.97 in expenses;
- u. Alan Rich - \$202,402.50 in fees and \$16,828.62 in expenses;
- v. Judge Sanders - \$62,415.00 in fees and \$3,904.58 in expenses;
- w. Towers Perrin - \$5,747.50 in fees;
- x. Tre Angeli - \$100,000.00 in fees and \$288.64 in expenses; and
- y. Woodcock Washburn - \$21,576.00 in fees and \$180.00 in expenses.


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<sup>14</sup>This reflects a recommended reduction of \$43.00 to correct an inadvertent overcharge on one of Pachulski's time entries, to which reduction the applicant has agreed.



Respectfully submitted,

**WARREN H. SMITH & ASSOCIATES, P.C.**


By:   
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**FEE AUDITOR**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served by First Class United States mail to the attached service list on this 5<sup>th</sup> day of March, 2010.

  
Warren H. Smith

**SERVICE LIST**

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